IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE THIRD DAY OF AUGUST
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 17128 of 2005

Between:

Ayyappa Trading Company represented by its proprietor, Sri CR Shivakumar

..... PETITIONER

AND

1. Indian Oil Corporation Limited, represented by Senior

Divisional Retail Sales Manager Divisional Office
GVR Towers 3rd floor Bharathinagar, Ring Road,
Vijayawada.
2. The Senior Divisional Manager Indian Oil Corporation Limited,

Warangal.
3. M/s Venkateswara Filing Station Indian Oil Dealers,

Mallepalli, Nalgonda District.

.....RESPONDENTS

ORDER:

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This writ petition is filed by the petitioner aggrieved by the action of the first respondent in terminating the dealership of the petitioner as Retail Outlet in Petroleum products vide proceedings in Ref: VJR/NGI Dated 25.07.2005 and appointing the third respondent as Retail Outlet dealer vide proceedings in Ref: VJR/NGI, dated 25.07.2005.

2. According to the petitioner, he was appointed as Retail Outlet Dealer of the petroleum products in the year 1990 and has been continuing since then. However, on certain allegations of the samples drawn from his outlet on 06.04.2005 failed to meet specification as to RON, proceedings dated 18.04.2005 were initiated against the petitioner suspending the supplies to the petitioner's Retail Outlet. Thereafter, a show cause notice was issued proposing to terminate his Retail Outlet dealership. As the petitioner already submitted representations dated 22.04.2005 and 30.04.2005, the petitioner did not give specific reply to the show cause notice as he was under the impression that the representations already made would be considered. However, the respondents-authorities have passed orders of termination without reference to the representations already made. Therefore, the impugned order of the termination of the authorization is illegal and violation of the principles of natural justice.

3. In response to the said contentions of the petitioner, the learned standing counsel appearing for the respondents stated that the writ petition itself is not maintainable as the termination order was in terms of the contract of the agreement of dealership. The learned counsel also stated that under identical circumstances, the writ petition filed by another dealer in W.P.No.76 of 2005 was disposed of by this Court by an order dated 11.01.2005, observing that the agreement provides the resolution of disputes through arbitration between the parties. Therefore, this writ petition is not the appropriate remedy. It is also stated that the judgment in the said writ petition was also confirmed in W.A.No.261 of 2005, dated 17.02.2005 wherein a Division Bench of this Court held that the case of the appellant therein would not come under the exceptions to the Rule to hold that the writ petition invoking the jurisdiction under Article 226 of the Constitution of India is maintainable. In view of the above, the learned standing counsel for the respondents prays to dismiss the writ petition.

4. Heard the learned counsel for the petitioner and considered the material available on record.

5. In view of the effective alternative remedy of the arbitration provided under clause 65 of the terms of the agreement entered in between the parties, the petitioner is entitled to invoke the provision of the Arbitration Clause and seek resolution of the disputes between the parties. Therefore, the writ petition is disposed of to avail the alternative remedy available to the petitioner. No order as to costs.

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(S. ANANDA REDDY, J)

Date: 03.08.2005

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